

Department of Public Health and  
Human Services (DPHHS)

## Health Insurance Portability and Accountability Act ("HIPAA") Privacy Policy

*John Chappuis, Deputy Director*

Date: February 27, 2003

Revised Date:

<b>Policy Title:</b>	Criteria for Compliant Authorization to Release Protected Health Information		
<b>Policy Number:</b>	010	<b>Version:</b>	1.0
<b>Approved By:</b>	John Chappuis		
<b>Date Approved:</b>	February 27, 2003		

### Purpose:

This policy addresses the criteria that makes an Authorization for Release of Protected Health Information ("Authorization") valid for both HIPAA and State Law.

### Policy:

**Uses and disclosures of Protected Health Information ("PHI") that require an authorization must not be made unless the Authorization is complete and valid.**

1. Required elements of a valid Authorization are:

- a. A description of the PHI to be used or disclosed, that identifies the information in a specific and meaningful fashion;
- b. The name or other specific information about the person(s), classification of persons, or entity (such as DPHHS specified program) authorized to make the specific use or disclosure;
- c. The name or other specific identification of the person(s), classification of persons, or entity to whom DPHHS may make the requested use or disclosure;
- d. A description of each purpose of the requested use or disclosure authorization. If the client does not wish to define a purpose, the description may read, "As requested by the client".

- e. An expiration date or an expiration event that relates to the client or to the purpose of the use or disclosure. If a date is not included, the Authorization expires in six (6) months. No expiration event or date can be listed that is greater than thirty (30) months;
  - f. Signature of the client, or of the client's Personal Representative, and the date of the signature; and
  - g. If the client's Personal Representative signs the Authorization form instead of the client, a description or explanation of the representative's authority to act for the client, including a copy of the legal court document (if any) appointing the Personal Representative, must also be provided.
- 2. Prior to any disclosures permitted, DPHHS must verify the identity of the person requesting a client's information and the authority of that person to have access to the information.
  - 3. DPHHS must provide the client with a copy of the signed Authorization form.
  - 4. DPHHS must document and retain each signed Authorization form for a minimum of six years and three months.
  - 5. Uses and disclosures must be consistent with what the client has authorized on the signed Authorization form. Under any such authorization, DPHHS will disclose only the minimum amount of information necessary to fulfill the purpose for which the information is requested.
  - 6. An authorization must be voluntary. DPHHS may not require the client to sign an Authorization as a condition of providing treatment, payment, services, enrollment in a health plan, or eligibility for health plan benefits, except:
    - a. Before providing research related treatment, a DPHHS health care provider may condition the client to sign an Authorization for the use or disclosure of health information for such research;
    - b. Before enrolling the client in a DPHHS health plan, DPHHS can condition the client to sign an Authorization if needed to help determine the applicant's eligibility for enrollment and the authorization is not for the use or disclosure of psychotherapy notes; and
    - c. DPHHS and its contracted health care providers can condition the client to sign an Authorization before providing health care that is solely for the purpose of creating protected health information for disclosure to a third party. For example, in a juvenile court proceeding, where a parent is required to obtain a psychological evaluation by DPHHS, the evaluator may, as a condition of conducting the evaluation, require the parent to sign an authorization to release the evaluation report (but not the underlying psychotherapy notes) to DPHHS.

7. An authorization that is required for enrollment in a health plan or to determine eligibility for benefits or the health plan cannot be combined with a voluntary authorization. A required authorization and a voluntary authorization must be separate documents, signed separately.
8. Clients have a right to restrict the uses and disclosures of information. Such restrictions must be submitted in writing and do not affect disclosures that have already taken place in good faith.